IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

THURSDAY, THE 8TH FEBRUARY 2007 / 19TH MAGHA 1928

WP(C).No. 20790 of 2006(Y)

PETITIONERS:

1. **RETNAN.P.K.,**
   HEAD SURVEYOR, OFFICE OF THE SUPERINTENDENT OF SURVEY AND LAND RECORDS (RESURVEY), ALUVA, ERNAKULAM DISTRICT.

2. **BALAN.K. (KOYON),**
   HEAD SURVEYOR,
   OFFICE OF THE SUPERINTENDENT OF SURVEY AND LAND RECORDS (RESURVEY), THALIPARAMBA, KANNUR DISTRICT.

3. **KUNJAN.P.A.,**
   HEAD SURVEYOR, COLLECTORATE,
   ERNAKULAM.

4. **CHANDRAN.T.R.,**
   HEAD SURVEYOR, OFFICE OF THE SUPERINTENDENT OF SURVEY AND LAND RECORDS, RANGE VADAKKANCHERRY, THRISSUR DISTRICT.

5. **RAGHAVAN.C.K.,**
   HEAD SURVEYOR, OFFICE OF THE SUPERINTENDENT OF SURVEY AND LAND RECORDS (RESURVEY), MANANTHAVADY, WAYANAD DISTRICT.

6. **ASOK.K, HEAD SURVEYOR,**
   OFFICE OF THE ASST. DIRECTOR,
   SURVEY AND LAND RECORDS, RANGE THRISSUR, THRISSUR DISTRICT.

7. **AMBUJAKSHAN.K.,**
   HEAD SURVEYOR, OFFICE OF THE SUPERINTENDENT OF SURVEY AND LAND RECORDS (RESURVEY), THRIPUNITHURA, ERNAKULAM DISTRICT.

...2/-

8. RADHAKRISHNAN.K.P.,
HEAD SURVEYOR, COLLECTORATE,
KANNUR.

BY ADV. SRI.C.T.RAVIKUMAR
SMT.K.S.SAIRA
SRI.A.ANILKUMAR

RESPONDENTS:
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1. STATE OF KERALA,
REP. BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF REVENUE & SURVEY,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF SURVEY & LAND RECORDS,
THIRUVANANTHAPURAM.

3. N.K.RAVEENDRAN,
DISTRICT SURVEY SUPERINTENDENT,
THRISSUR.

4. SOMASEKHARAN NAIR,
SUPERINTENDENT OF SURVEY & LAND RECORDS,
RE-SURVEY, CHERTHALA, ALAPPUZHA DISTRICT.

BY ADV. SRI.ELVIN PETER P.J for R3 & R4
SRI.NAVEEN.T
BY GOVT.PLEADER SRI. P. NANDAKUMAR for R1 & R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE SENIORITY LIST OF HEAD SURVEYORS FOR THE PERIOD FROM 1/11/1956 TO 1/04/2002 PUBLISHED AS PER G.O.(P) NO.50/2003/REV. DTD. 25/02/2003.**

EXT.P2: **COPY OF THE REPRESENTATION DTD. 20/11/2006 BEFORE THE 1ST RESPONDENT.**

/TRUE COPY/

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K.K. DENESAN, J.

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W.P.(C) No. 20790 OF 2006 Y
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Dated this the 8th February, 2007

J U D G M E N T

The petitioners are Head Surveyors in the Kerala Survey & Land Records Department. They have sought for a declaration that the action of respondents 1 and 2 overlooking the seniority of the petitioners in the matter of recruitment by transfer to the post of Superintendent of Survey & Land Records in total disregard to the provisions for exemption under Rule 13A and 13AA of K.S. & S.S.R., as illegal and arbitrary. They have also sought for a direction to promote/appoint the petitioners by recruitment by transfer to the post of Superintendent of Survey & Land Records with effect from the dates their respective immediate juniors were promoted to the said post, with all consequential benefits.

2. The petitioners are members of the Scheduled Caste. They commenced service prior to 31-12-1985. This Court has taken the view that the test prescribed for promotion to the post of Supdt. of Survey & Land Records comes within the purview of Rule 13A and 13AA of K.S. & S.S.R. Decision by a learned Single Judge of

this Court was upheld by the Division Bench in W.A. No.1028of 2006 and connected cases. Hence, the petitioners are entitled to the declaration sought for in this writ petition. That means, the case of the petitioners shall be considered for transfer appointment to the post of Supdt. of Survey & Land Records as though they are fully qualified to hold that post.

3. Counsel for respondents 3 and 4 submits that even if the petitioners are held to be fully qualified to be considered for appointment to the post of Supdt. of Survey & Land Records on the strength of the exemption from test qualification, dispute relating to the inter se seniority between the petitioners on the one hand and respondents 3 and 4 on the other will have to be settled by the authorities before the petitioners are appointed. Taking note of the above submission as well, this writ petition is disposed of as follows:

There shall be a declaration that the petitioners are qualified by way of exemption from the test qualification, for transfer appointment to the post of Supdt. of Survey & Land Records by virtue of Rule 13A and 13AA of K.S. & S.S.R. Decision to the contrary

taken by the respondents is illegal. It is so declared. There shall be an order directing respondents 1 and 2 to immediately consider forthwith the case of the petitioners for transfer appointment to the post of Supdt. of Survey & Land Records, at any rate, within one month from the date of receipt of a copy of the judgment. If the petitioners are found entitled to be included in the list of qualified persons to be appointed, they shall be transfer appointed against vacancies based on their seniority. If the authorities find that any dispute between the petitioners on the one hand and the respondents 3 and 4 on the other, relating to inter se seniority is raised, the same shall be settled in accordance with law. It is open to the 2nd respondent to afford opportunity of being heard to the petitioners and respondents 3 and 4 or any other person who may be affected, before orders of promotion are issued. The above exercise, if need be, shall be completed with utmost expedition.

K.K. DENESAN
JUDGE

jan/